Mineral Aggregate Resources Policy Statement

A Guideline on Implementation

May, 1986

THIS GUIDELINE IS ADVISORY ONLY AND MUST BE READ TOGETHER WITH THE MINERAL AGGREGATE RESOURCES POLICY STATEMENT

Prepared by
Minstry of Natural Resources
in consultation with
Ministries of Municipal Affairs,
Agriculture and Food, Environment
and Transportation and Communications

Ontario
Ministry of Natural Resources
Hon. Vincent G. Kerrio
Minister
Mary Mogford
Deputy Minister

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Inquiries concerning this publication or requests for additional copies should be directed to:

Ministry of Natural Resources
Policy and Planning Secretariat
Whitney Block, Room 6440
99 Wellesley Street West
Toronto, Ontario M7A 1W3
Telephone (416) 965-2899

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1. INTRODUCTION

This advisory guideline for municipal planning authorities explains some options for implementing the Mineral Aggregate Resources Policy (MARP) Statement under the Planning Act and should be used with discretion. The options identified in this guideline may not be all inclusive. Other options may have merit and should be discussed with Ministry of Natural Resources and Ministry of Municipal Affairs officials.

This guideline recognizes the official plan as the main instrument for expressing municipal planning policy and the zoning by-law as the major means of implementing municipal planning policy. New official plan policies for existing pits and quarries are not retroactive.

Each numbered section in this guideline begins by quoting the associated section of the policy statement.

For information on how to implement the MARP Policy Statement in conjunction with others to be issued under the Planning Act, reference should be made to the document entitled "Guideline to Policy Statements under the Planning Act", prepared by the Ministry of Municipal Affairs.

In preparing official plan and zoning by-law provisions with regard for the MARP Policy Statement, more detailed information is available from the local Ministry of Natural Resources (MNR) district office or the Ministry of Municipal Affairs (local Community Planning Advisory Branch Office or Plans Administration Branch). Contact with MNR should occur at the onset of any planning program.

Other Ministries may have interests relating to mineral aggregate resource planning and should be consulted early in the planning process. For example:

- The Ontario Ministry of Agriculture and Food (OMAF) is responsible for the preservation of agricultural land and the maintenance of the soil's capability for agriculture. OMAF's land use policies are outlined in the Foodland Guidelines.*

- The Minstry of the Environment (MOE) is responsible for the minimizing of environmental impacts. In general, areas of interest include surface and ground water impacts, noise and vibration, air quality, incompatible or conflicting land uses, soil contamination, and site drainage.

- The Ministry of Transportation and Communications (MTC) is responsible for ensuring that reliable supplies of sand, gravel, crushed stone, and earth borrow or fill are available for use in MTC highway construction and maintenance projects.

* The proposed Foodland Preservation Policy Statement was being circulated for public comment at the time this guideline was issued.

- The Ministry of Municipal Affairs is responsible for the administration of the Niagara Escarpment Planning and Development Act and should be consulted in respect to application of MARP to areas within the Niagara Escarpment Plan.

2. OFFICIAL PLANS

2.1 Legally Existing Pits and Quarries

"It is the policy of the Province of Ontario that official plans identify and protect legally existing pits and quarries from incompatible land uses."

Discussion:

Legally existing pits and quarries, defined in the MARP Statement, can be identified by:

- designation on the land use schedule; or
- designation on a separate map in the plan; or
- illustration on a map in an appendix to the plan; or
- by an official plan policy that all legally existing pits and quarries are to be identified or designated and placed in a separate zoning category in the implementing zoning by-law(s).

Official plan policies can protect legally existing pits and quarries by:

- permitting all legally existing pits and quarries to continue their operations; and
- prohibiting incompatible land uses and activities, both on site and adjacent to these operations.

Municipal planning authorities, in consultation with MOE/MNR may consider using the influence area approach to minimize land use conflicts when preparing official plan policies to protect legally existing pits and quarries.

An influence area is the area surrounding a pit or quarry where the impacts of the operation may be felt on the environment, nearby residents and land uses. The size of an influence area will vary from site to site, depending on many factors including size, type of pit or quarry operation, location, type and intensity of surrounding land uses, etc. The influence area concept is intended to protect existing or designated sensitive land uses from proposed pits or quarries and existing or designated pits or quarries from encroachment by sensitive uses, based on pertinent information respecting surface and groundwater, noise, vibration, dust, etc.

Although influence areas must be determined on a case-by-case basis, criteria (which may include those factors listed above) may be established in the official plan to help a municipality determine the size of an influence area surrounding a pit or quarry. MOE should be consulted for details concerning appropriate environmental matters requiring consideration.

2.2 Mineral Aggregate Resource Areas

"It is the policy of the Province of Ontario that official plans identify and protect from land uses, which are incompatible with possible future extraction as much of the mineral aggregate resources occurring in the municipality as is realistically possible in the context of the municipality's other land use planning objectives, and in recognition of the continuing local, regional and provincial need for mineral aggregates."

Discussion:

Options for identifying and protecting mineral aggregate resources include:

- Official Plan Policy Referring to MNR Resource Maps

  In this option, there is no mineral aggregate resource map in the official plan, but the plan contains general policies for the protection of mineral aggregate resources. The text makes reference to MNR maps (e.g. "Aggregate Resource Inventory Papers"), available at MNR district offices and/or on file at the municipal offices.

  The official plan policies should clearly recognize that extraction may not be feasible or advisable throughout all areas of the identified aggregate resources. However, when considering applications for redesignation, rezoning, plans of subdivision or land severances, regard will be had for the need to protect land for the future extraction of mineral aggregate resources, as shown on the MNR reference maps, in consultation with MNR staff. (MNR's maps are for municipal information and reference only).

- Official Plan Policy on Mineral Aggregate Resource Areas

  The official plan policy refers to mineral aggregate resources in one or more specific geographic areas described in words only (e.g. area of municipality south of Fifth Sideroad). Official plan policies protecting these resources from incompatible uses would require planning applications for new developments in the specified geographic areas to be considered with a view to their impact on the mineral aggregate resources through consultation with MNR.

- Mineral Aggregate Resource Map as an Official Plan Appendix with Related Policies

  A map in the appendix of the official plan identifies mineral aggregate resource areas selected for protection by the municipality in consultation with MNR. The map is not part of the approved official plan but would show resource information useful to council and the public.

  The purpose of the appended map is to provide a mineral aggregate inventory which the municipality, and others, can consider before permitting a proposed land use to occur. Some uses would, of course, prevent future extraction from occurring (e.g. high density residential). In making its decision, the muncipal council would have the pertinent resource information at hand. It could consider, in light of overall planning rationale, whether extraction would be feasible or whether the proposed use would preclude or hinder future extraction, or whether the proposed use is of higher priority than mineral aggregate extraction, given local circumstances and the municipality's planning objectives.

- A Map in the Official Plan

  A map identifying mineral aggregate resource areas, selected by the municipality, in consultation with MNR, could be included in the official plan. Changes to this map would require an official plan amendment. The map may be separate from the Land Use Schedule or part of it as an overlay. In the latter case, the mineral aggregate resource areas would be shown superimposed on the actual land uses of the Land Use Schedule.

  The overlay would not constitute a separate land use designation, but would indicate a constraint on development.

  The official plan map would advise council and the public that mineral aggregate resouce protection is to be considered before decisions on land use changes are made. Appropriate policies to this effect would be found in the text of the plan. Use of this option should not preclude the land uses committed by the designation on the Land Use Schedule.

- Designation on the Official Plan Land Use Schedule

  This option involves designating mineral aggregate resource lands on the Land Use Schedule and prohibiting uses which are not compatible with aggregate operations.

  Since official plan amendments would not be needed to permit new pits and quarries in designated areas, official plan policies should describe the municipal interests in pit and quarry uses when assessing applications to amend zoning by-laws and applications under the Pits and Quarries Control Act.

2.3 Permitting Non-Aggregate Land Uses in Mineral Aggregate Resource Areas Identified and Protected by the Official Plan

"It is the policy of the Province of Ontario that official plans may establish policies to permit non-aggregate land uses or developments in areas of mineral aggregate resources, which are protected in the official plan, where it can be shown that:

a) extraction would not be feasible; or

b) the proposed land use or development serves a greater long-term interest of the general public than does aggregate extraction; or

c) the proposed land use or development would not significantly preclude or hinder future extraction."

Discussion:

If non-aggregate uses are to be allowed in mineral aggregate resource areas, the official plan should acknowledge the three criteria stated in the policy and state the matters to be considered in permitting these uses. These matters should include:

- the necessity of the land use in comparison to the value of the mineral aggregate deposit, taking into account the extent, type and quality of areas of mineral aggregate resources in the municipality;
- the reason for the choice of location and an appraisal of alternative locations for the non-aggregate land use on non-aggregate lands;
- the feasibility of sequential land use in which the mineral aggregate is removed prior to the proposed use;

- the impact that the proposed use may have on any existing pits and quarries in the vicinity and on future aggregate extraction in the surrounding mineral aggregate protection area;

- whether or not the mineral aggregate has been extracted or further studies have indicated that the aggregate resource on the specific site is not economically viable; and

- whether or not existing, adjacent uses within the influence area are incompatible and may make future extraction impossible.

2.4 Establishment of New Pits and Quarries

"It is the policy of the Province of Ontario that official plans provide a clear and reasonable mechanism to permit the establishment or expansion of pits and quarries, including policies that:

a) outline any amendments that may be required to the official plan and/or zoning by-law; and

b) specify the information required and the matters to be considered by a municipality to evaluate an amendment application, including information on the protection of existing land uses and the natural environment."

Discussion

In preparing official plan policies, council should consider what, if any, amendments are required to permit a new aggregate operation or expansion. Some possibilities include the following:

- no official plan or zoning by-law amendment in areas designated for mineral aggregate extraction; or

- a zoning by-law amendment only; or

- amendments to both the official plan and zoning by-law.

The official plan should include a policy(ies) setting out the environmental and other matters to be addressed in the review of pit and quarry proposals.

Official plan policies should also specify the pertinent information required of an applicant and matters to be considered by council in deciding on official plan and/or zoning by-law amendments for the proposed pit, quarry or expansion. To be fair with all applicants, the information and the matters council should consider in making decisions should be similar unless circumstances justify further information or studies. The parameters of such requirements for additional information or studies should be established in consultation with the appropriate provincial Ministries.

Criteria may be established in the official plan to help a municipality decide on the size of an influence area surrounding a pit or quarry. This ensures that a municipality can assess the suitability of an application and whether or not to grant planning permission (through whatever type of planning mechanism(s) is required by the plan).

Official plans should also have regard to the requirements of the Foodland Guidelines, or its successor, in the establishment of new pits and quarries.

2.5 Wayside Pits and Quarries

"It is the policy of the Province of Ontario that official plans permit wayside pits and quarries without requiring an amendment to the plan or zoning by-law except the plan may require a rezoning for a wayside pit or quarry in areas of existing development or particular environmental sensitivity which are designated in the plan."

Discussion

Wayside pits and quarries suit a simple planning and approval process because they:

- are important in minimizing the taxpayers' costs for public works;
- are usually small in size, are of a short term duration and consequently cause less environmental effects;
- are often required at relatively short notice; and
- are often located in lower quality deposits and sometimes in remote areas where the estalishment of long-term operations under normal procedures could not be economically justified.

Official plan policies should provide the following:

- a definition of wayside pits and quarries; and
- a policy(ies) which permits wayside pits and quarries throughout the municipality or planning area without requiring a plan amendment, and without a zoning amendment except possibly in areas of existing development or areas designated as environmentally sensitive in the official plan.

In areas where aggregate resources are of low quality or very scarce, including wayside pit and quarry policies in an official plan is important due to the need for earth borrow type materials for road fill purposes.

Wayside pits and quarries established for the Ministry of Transportation and Communications road projects are processed through joint MNR-MTC procedures. Early consultation with municipalities is required to ensure minimal adverse impacts on the social and natural environment and cost effective control and rehabilitation.

Official plans may include policies setting out land use planning concerns which the planning authority may wish the Ministry of Natural Resources and/or the Ministry of Tranportation and Communications (as appropriate) to consider or accommodate in the selection process and the issuance of permits for wayside pits and quarries.

2.6 Rehabilitation

"It is the policy of the Province of Ontario that official plans may require rehabilitation to an after-use compatible with the long-term uses permitted by the plan."*

Discussion:

Rehabilitation is required for pits and quarries in areas designated under the Pits and Quarries Control Act. Municipalities in these areas may propose official plan policies requiring additional rehabilitation measures.

Due consideration must be given to the requirements of other provincial policies. For example, the Foodland Guidelines, or its successor, contains policies on rehabilitation of pits and quarries in specialty crop lands and other prime agricultural land.

In areas where the Pits and Quarries Control Act does not apply, rehabilitation policies in the official plan are important since, otherwise, no rehabilitation would be required.

Official plans in any area can include policies that:

- encourage progessive rehabilitation;
- outline how rehabilitation standards will be adopted and enforced (e.g. regulatory by-law under the Municipal Act);
- specify after-uses for rehabilitated sites; and

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* **In parts of Ontario designated under the Pits and Quarries Control Act, rehabilitation is mandatory.**

- encourage the wise use of remaining resources in, and rehabilitation of, abandoned pits or quarries through their re- activation as temporary wayside operations.

Municipalities may also consider official plan rehabilitation policies for wayside pits and quarries. MTC rehabilitation standards should also be considered.

Progressive rehabilitation is carried out as extraction occurs on the same site. By this process the operation is gradually made suitable for its proposed after-use. Where it is possible, progressive rehabilitation helps minimize adverse impacts of the operation, is less expensive and generally more effective than leaving rehabilitation to the end of the life of the pit or quarry.

3. ZONING BY-LAWS

3.1 Legally Existing Pits and Quarries

"It is the policy of the Province of Ontario that zoning by-laws regulate all legally existing pits and quarries in such a way that these operations are a permitted activity with no uses or other activities permitted within the zoning category that would be incompatible with mineral aggregate operations."

Discussion:

A zoning by-law implementing an official plan with adequate mineral aggregate policies can incorporate the following provisions:

- Definitions of a pit, quarry, wayside pit and wayside quarry.
- A specific extractive zoning category for all legally existing pits and quarries OR a general land use zone permitting their operation, associated activities and compatible uses (and prohibiting all incompatible uses).
- Permitted uses in the extractive zone should include aggregate extraction, and associated uses and activities such as crushing, screening and washing operations, stockpiling, storage sheds, weighscales, office, parking, etc. Municipalities may consider controlling uses such as asphalt plants, concrete batching plants and aggregate transfer stations through a separate zoning category.
- Mineral aggregate resource areas identified and protected in the official plan should be zoned so that uses incompatible with future extraction are not permitted.

- Pit and quarry operations can be regulated in zoning by-laws in two ways. First, by defining the uses prohibited or permitted in a zone. Second, by setting standards such as minimum yard requirements and maximum height.

3.2 Zoning By-Laws With No Supporting Mineral Aggregate Official Plan Policies

"It is the policy of the Province of Ontario that zoning by-laws in those municipalities not subject to an official plan, protect mineral aggregate deposits identified by the Ministry of Natural Resources in conjunction with the municipality, by placing these lands in a zoning category which prohibits uses that are incompatible with possible future extraction."

Discussion:

In areas without official plans, pits and quarries can be zoned as in areas with official plans. However, there is no municipal policy guidance to help council decide which lands should be protected and zoned for future extraction. One way of proceeding is to place the aggregate resource lands in an extractive zone which permits pits and quarries, associated activities and compatible uses (and prohibits all incompatible uses). This allows pits and quarries to establish throughout the zone without the municipality being able to exercise any site specific location control and it does not identify or define individual pits and quarries. If a municipality has not identified the aggregate resource lands in an official plan, defining these areas in a zoning schedule could be a difficult task.

It is difficult to protect aggregate resources and pits and quarries in a zoning by-law which does not have supporting official plan policies. This is because there is no guidance or control on the amendments which can be made to the zoning by-law to permit uses which are incompatible with extraction or resource protection.

3.3 Wayside Pits and Quarries

"It is the policy of the Province of Ontario that zoning by-laws permit wayside pits and quarries in all zoning categories, except in zones which are established to recognize existing development or areas of particular environmental sensitivity, where wayside pits and quarries may be prohibited."

Discussion:

A zoning by-law should permit wayside pits and quarries as a permitted use in all zones (i.e. without requiring an amendment). However, wayside pits and quarries may be prohibited in areas where they would be incompatible with existing zoned development or environmentally sensitive zones.

4. GLOSSARY

- "Pit" means a place where unconsolidated gravel, stone, sand, earth, clay, fill, mineral or other material is being or has been removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside pit.

- "Quarry" means a place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside quarry or open pit metal mine.

- "Wayside pit" or "wayside quarry" means a temporary pit or quarry opened and used by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right of way.